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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/380,208	11/08/1999	EVA SIMMONS	000500-196	2331

7590 06/20/2002

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EXAMINER

KIDWELL, MICHELLE M

ART UNIT	PAPER NUMBER
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3761

DATE MAILED: 06/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/380,208

Applicant(s)

SIMMONS ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 March 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 37 –40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 37 recites the limitation "said free sealing edge" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 40 recites the limitation "said free sealing edge" in lines 1 – 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 15, 25 – 36 and 40 – 42 are rejected under 35 U.S.C. 102(e) as being anticipated by Roe (US 5,607,760).

With reference to claim 15, Roe discloses a method of achieving in an absorbent article that includes an absorbent body disposed between a liquid-impermeable bottom sheet which is intended to lie distal from a wearer in use, a liquid-permeable upper sheet which is intended to lie proximal to the wearer, and at least one longitudinally extending liquid barrier on each side of a center line of the upper sheet made of essentially liquid-impervious material and fastened along or adjacent to a respective longitudinally extending side extremity of the absorbent article and comprising a free elastic sealing edge intended to be stretched against the wearer and an improved sealing ability against the skin of the wearer, at a given available elongation, by at least one sealing edge on each side of the center line, comprising modifying or treating the absorbent article in such a way as to cause the absolute value of $\Delta P = 2\gamma \cos\theta_m / r$ for said sealing edge to increase, where γ designates the surface tension of a liquid to be absorbed by suction, r designates the radius of the largest circle that can be encompassed in any pore with walls formed by said sealing edge against the wearer's skin at the given available elongation, and $\cos\theta_m$ is the weighted mean value of

$\cos\theta$, where θ is the wetting angle of the liquid to the sealing edge or the skin comprising the pore walls as set forth in col. 6, lines 38 – 53, col. 8, lines 50 – 56, col. 15, lines 53 – 56 and col. 25, lines 26 – 32.

Regarding claims 25 – 28, see the rejection of claim 15.

With reference to claims 29 – 34 and 41 – 42, Roe discloses an absorbent article that includes an absorbent body disposed between a liquid-impermeable bottom sheet which is intended to lie distal from a wearer in use, a liquid-permeable upper sheet which is intended to lie proximal to the wearer and at least one longitudinally extending liquid barrier on each side of a center line of the upper sheet, made of essentially liquid-impervious material and fastened along or adjacent to a respective longitudinally extending side extremity of the article and including a free elastic sealing edge intended to be stretched against the wearer as set forth in col. 6, lines 38 – 53 and col. 8, lines 50 – 56.

Regarding claims 35 – 36, see col. 8, lines 50 – 56, col. 15, lines 53 – 56 and col. 25, lines 26 – 32.

As to claim 40, Roe discloses an article wherein the sealing edge is comprised of a ribbon-like elastic film in col. 8, lines 50 – 56, through the incorporation of Dragoo (US 4,795,454).

Dragoo discloses an article wherein the sealing edge is comprised of a ribbon-like elastic film as set forth in col. 10, lines 31 – 65.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16 – 24 and 37 – 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roe (US 5,607,760).

With reference to claims 16 – 24, Roe discloses a method of applying petroleum jelly to the leg cuffs of an absorbent article, thereby increasing the absolute value of ΔP and decreasing the pore radius.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to experiment with the amount of petroleum jelly in order to determine the most effective product since it has been held that discovering the optimum value of a result effective variable involves only routine skill in the art.

Regarding claims 37 – 39, absent of a critical teaching and/or unexpected result, the examiner contends that the claimed limitations would be an obvious matter of design choice that does not patentably distinguish the claimed invention from the prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 703-305-2941. The examiner can normally be reached on Monday - Friday, 7:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dennis Ruhl can be reached on 703-308-2262. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3590 for regular communications and 703-305-3590 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.

Michele Kidwell

Michele Kidwell
June 17, 2002

Glenn K. Dawson

GLENN K. DAWSON
PRIMARY EXAMINER